

UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

ELAINE CONNOLLY,

Plaintiff

v.

Civil No. 04-246-P-C

H.D. GOODALL HOSPITAL, INC.,
SHELLY STUART, R.N.,
JEFFREY TONER, and
DOLORES HOPPER, R.N.,

Defendants

Gene Carter, Senior District Judge

ORDER VACATING THE COURT'S ORDER STRIKING NOTICE OF APPEAL

The Court has sua sponte **RECONSIDERED** its action in entering the Order Striking Notice of Appeal (Docket Item No. 19) herein and that Order is hereby **VACATED**. The Remand Order entered in this case is a result of the dismissal of the claims creating federal jurisdiction and thus appellate review of the Court's action on the federal claims is not precluded by 28 U.S.C. § 1447(d) and is permitted pursuant to 28 U.S.C. § 1291. *See St. John v. Int'l Assn of Machinists & Aero. Workers*, 139 F.3d 1214 (8th Cir. 1998); *Beauclerc Lakes Condo. Ass'n v. City of Jacksonville*, 115 F.3d 934 (11th Cir. 1997); *Carr v. Am. Red Cross*, 17 F.3d 671 (3d Cir. 1994); *Cf. Vargas v. Geologistics Ams.*, 284 F.3d 232 (1st Cir. 2002). Plaintiff may resubmit within ten (10)

days of the date of docketing this Order the appeal fee of \$255 and the Clerk shall thereafter docket Plaintiff's Notice of Appeal as timely filed.

/s/ Gene Carter
GENE CARTER
United States Senior District Judge

Dated at Portland, Maine this 8th day of March, 2005.

Plaintiff

ELAINE CONNOLLY

represented by **LEONARD I. SHARON**
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ATTORNEY TO BE NOTICED

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V.

Defendant

**HD GOODALL HOSPITAL
INCORPORATED**

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Defendant

SHELLY STUART

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LEAD ATTORNEY
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Defendant

JEFFREY TONER

represented by **JAMES R. ERWIN**
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Defendant

DELORES HOPPER

represented by **JAMES R. ERWIN**
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